

UTAH CODE
(UNANNOTATED)

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF SOLID AND HAZARDOUS WASTE

**ENVIRONMENTAL QUALITY CODE - HAZARDOUS
SUBSTANCES**

PART 9
ILLEGAL DRUG OPERATIONS SITE REPORTING
AND DECONTAMINATION ACT
(Title 19, Chapter 6, Sections 901-906)
(2008)



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Title 19 Chapter 6
ENVIRONMENTAL QUALITY CODE - HAZARDOUS
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19-6-901 Title.

This part is known as the "Illegal Drug Operations Site Reporting and Decontamination Act."

19-6-902 (Superseded 07/01/09). Definitions.

As used in this part:

- (1) "Board" means the Solid and Hazardous Waste Control Board, as defined in Section 19-1-106, within the Department of Environmental Quality.
- (2) "Certified decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has been certified by the board under Subsection 19-6-906(2).
- (3) "Contaminated" or "contamination" means polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards.
- (4) "Contamination list" means a list maintained by the local health department of properties:
 - (a) reported to the local health department under Section 19-6-903; and
 - (b) determined by the local health department to be contaminated.
- (5) "Decontaminated" means property that at one time was contaminated, but the contaminants have been removed.
- (6) "Hazardous materials":
 - (a) has the same meaning as "hazardous or dangerous materials" as defined in Section 58-37d-3; and
 - (b) includes any illegally manufactured controlled substances.
- (7) "Health department" means a local health department under Title 26A, Local Health Authorities.
- (8) "Owner of record":
 - (a) means the owner of real property as shown on the records of the county recorder in the county where the property is located; and
 - (b) may include an individual, financial institution, company, corporation, or other entity.
- (9) "Property":
 - (a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and
 - (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.
- (10) "Reported property" means property that is the subject of a law enforcement report under Section 19-6-903.

19-6-903. Law enforcement reporting and records -- Removal from list.

(1) (a) When any state or local law enforcement agency in the course of its official duties observes any paraphernalia of a clandestine drug laboratory operation, including chemicals or equipment used in the manufacture of unlawful drugs, the agency shall report the location where the items were observed to the local health department.

(b) (i) The law enforcement officer shall make the report under Subsection (1)(a) at the location where the observation occurred, if making the report at that time will not compromise an ongoing investigation.

(ii) If the report cannot be made at the location, the report shall be made as soon afterward as is practical.

(c) The report under Subsection (1)(a) shall include:

- (i) the date of the observation;
- (ii) the name of the reporting agency and the case number of the case that involves the location of the observation;
- (iii) the contact information of the officer involved, including name and telephone number;
- (iv) the address of the location and descriptions of the property that may be contaminated; and
- (v) a brief description of the evidence at the location that led to the belief the property at the location may be contaminated.

(2) The law enforcement agency shall forward to the local health department copies of the reports made under Subsection (1).

(3) (a) Upon receipt of a complaint or a report from law enforcement regarding possibly contaminated property, the local health officer or his designee shall determine if reasonable evidence exists that the property is contaminated.

(b) The local health department shall place property considered to be contaminated on a contamination list.

(4) The local health departments shall maintain searchable records of the properties on their contamination lists and shall:

- (a) make the records reasonably available to the public;
- (b) provide written notification to persons requesting access to the records that the records are only advisory in determining if specific property has been contaminated by clandestine drug lab activity; and
- (c) remove the contaminated property from the list when the following conditions have been met:
 - (i) the local health department has monitored the decontamination process and, after documenting that the test results meet decontamination standards, has authorized the removal of or purging of the contamination information from the department's records; or
 - (ii) a certified decontamination specialist submits a report to the local health department stating that the property is decontaminated.

19-6-904. Decontamination specialist reporting to local health departments.

(1) A certified decontamination specialist is required to report to the local health department the location of any property that is the subject of decontamination work by that decontamination specialist. The report shall be submitted prior to commencement of the decontamination work.

(2) The report under Subsection (1) shall include:

(a) sufficient information to allow the local health department to investigate and verify the location of the property, including the address and description of the property; and

(b) a proposed work plan for decontaminating the property.

(3) Upon completion of the decontamination process, a report certifying that the property is decontaminated shall be submitted to the local health department within 30 days.

19-6-905. Notification of property owner -- Notification of municipality or county.

(1) (a) If the local health department determines a property is contaminated, it shall notify the owner of record that the property has been placed on the contamination list and shall provide to the owner information regarding remediation options and the requirements necessary to clean up the property, obtain certification that the property is decontaminated, and remove the property from the contamination list.

(b) The notification shall include a deadline for the owner to provide to the local health department information on how the owner plans to address the contamination.

(c) This part does not require that decontamination be conducted by a certified decontamination specialist. However, upon completion of the decontamination, the property must be determined to be decontaminated in accordance with Subsection 19-6-903(4)(c) in order to be removed from the contamination list.

(2) If the local health department does not receive a response from the owner of record within the time period specified in the notice, or the owner of record advises the local health department that the owner does not intend to take action or that the reported property will be abandoned, the local health department shall notify the municipality in which the reported property is located, or the county, if the location is in an unincorporated area, of the owner of record's response or lack of response.

19-6-906. Decontamination standards -- Specialist certification standards -- Rulemaking.

(1) The Department of Health shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with the local health departments and the Department of Environmental Quality, to establish:

(a) decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris under this part;

(b) appropriate methods for the testing of buildings and interior surfaces, and furnishings, soil, and septic tanks for contamination; and

(c) when testing for contamination may be required.

(2) The Department of Environmental Quality Solid and Hazardous Waste Control Board shall make rules under Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, in consultation with the Department of Health and local health departments, to establish within the Department of Environmental Quality Division of Environmental Response and Remediation:

(a) certification standards for any private person, firm, or entity involved in the decontamination of contaminated property; and

(b) a process for revoking the certification of a decontamination specialist who fails to maintain the certification standards.

(3) All rules made under this part shall be consistent with other state and federal requirements.

(4) The board has authority to enforce the provisions under Subsection (2).